

good standing” for purposes of this section.

(2) Rule for Courts-Martial 502(d)(3)(A) requires that any civilian defense counsel representing an accused in a court-martial be a member of the bar of a Federal court or of the bar of the highest court of a State. This civilian defense counsel qualification only has meaning if the attorney is a member “in good standing,” see *U.S. v. Waggoner*, 22 M.J. 692 (AFCMR 1986), and is then authorized to practice law within that jurisdiction. It is appropriate for the military judge, in each and every case, to ensure that a civilian defense counsel is qualified to represent the accused.

(3) Failure of a judge advocate to comply with the requirements of this Rule may result in professional disciplinary action as provided for in this instruction, loss of certification under Articles 26 and/or 27(b), UCMJ, adverse entries in military service records, and administrative separation under Secretary of the Navy Instruction 1920.6 (series) based on the officer’s failure to maintain professional qualifications. In the case of civil service and contracted civilian attorneys practicing under the JAG’s cognizance and supervision, failure to maintain good standing or otherwise to comply with the requirements of this Rule may result in adverse administrative action under applicable personnel regulations, including termination of employment.

(4) A covered USG attorney need only remain in good standing in one jurisdiction. If admitted to the practice of law in more than one jurisdiction, however, and any jurisdiction commences disciplinary action against or disciplines, suspends or disbars the covered USG attorney from the practice of law, the covered USG attorney must so advise the JAG.

(5) Certification by the United States Court of Appeals for the Armed Forces that a covered attorney is in good standing with that court will not satisfy the requirement of this section, since such status is normally dependent on Article 27 UCMJ certification alone.

§§ 776.72–776.75 [Reserved]

Subpart C—Complaint Processing Procedures

§ 776.76 Policy.

(a) It is JAG’s policy to investigate and resolve, expeditiously and fairly, all allegations of professional impropriety lodged against covered attorneys practicing under JAG cognizance and supervision.

(b) Rules Counsel approval will be obtained before conducting any preliminary inquiry or formal investigation into an alleged violation of subpart B of this part or the Code of Judicial Conduct. The Rules Counsel will notify the JAG prior to the commencement of any preliminary inquiry or investigation. The preliminary inquiry and any subsequent investigation will be conducted according to the procedures set forth in this subpart.

§ 776.77 Related investigations and actions.

Acts or omissions by covered attorneys may constitute professional misconduct, criminal misconduct, poor performance of duty, or a combination of all three. Care must be taken to characterize appropriately the nature of a covered attorney’s conduct to determine who may and properly should take official action.

(a) Questions of legal ethics and professional misconduct by covered attorneys are within the exclusive province of JAG. Ethical or professional misconduct will not be attributed to any covered attorney in any official record without a final JAG determination, made in accordance with this part, that such misconduct has occurred.

(b) Criminal misconduct is properly addressed by the covered USG attorney’s commander through the disciplinary process provided under the UCMJ and implementing regulations, or through referral to appropriate civil authority.

(c) Poor performance of duty is properly addressed by the covered USG attorney’s reporting senior through a variety of administrative actions, including documentation in fitness reports or employee appraisals.